

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

ACA INTERNATIONAL,

Plaintiff,

v.

MAURA HEALEY, IN HER OFFICIAL  
CAPACITY AS MASSACHUSETTS  
ATTORNEY GENERAL

Defendant.

Civil Action No. 1:20-cv-10767-RGS

**SECOND NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff ACA International (“ACA”) respectfully provides notice that it learned this evening (April 28, 2020), that yesterday on April 27, 2020, the Consumer Financial Protection Bureau (“CFPB”), by and through its Director, Kathleen L. Kraninger, provided the letter attached as Exhibit A to the Chairman of the Federal Communications Commission (“FCC”), Ajit Pai.

In its Memorandum of Law in Support of Plaintiff’s Emergency Motion for a Temporary Restraining Order and Preliminary Injunction (Docket Entry No. 7), ACA cites to the Telephone Consumer Protection Act (“TCPA”), codified at 47 U.S.C. § 227, for the proposition that it “strictly regulates calls using automated dialing technologies.” *Id.* at 9-10. ACA further cites in its brief that “[b]oth the FCC and the FTC have issued extensive regulations implementing the TCPA.” *Id.* at 10 (citing 47 C.F.R. Ch. I, Subch. B, Pt. 64 (FCC); 16 C.F.R. Part 310 (FTC)). Among other things, the letter provides the CFPB’s position to the FCC, “and supported in part by the National Consumer Law Center (NCLC) and other consumer advocacy organizations,” that “[a]s the country continues to experience the impact of the COVID-19 pandemic,” the CFPB

has concluded that “[a] limited number of automated calls from financial institutions to their customers alerting them to offers of forbearance; payment deferrals; fee waivers; extension or relaxation of repayment terms; loan modifications; and other programs, relief, and resources relating to loans secured by homes or vehicles is an important avenue to ensuring that consumers know the various options that may be available to them.” The letter notes that “[f]inancial institutions engaging in this activity remain subject to other existing legal requirements with respect to communications with consumers, such as . . . the Dodd-Frank-Act’s prohibition on unfair, deceptive, or abusive acts or practices.”

Dated: April 28, 2020

Respectfully submitted,

ACA INTERNATIONAL

By its attorneys,

/s/ David M. Bizar  
David M. Bizar (BBO# 566795)  
Seyfarth Shaw LLP  
Seaport East, Suite 300  
Two Seaport Lane  
Boston, MA 02210-2028  
Telephone: (617) 946-4874  
Fax: (617) 790-5368  
Email: dbizar@seyfarth.com

Robert J. Carty, Jr. (admitted *pro hac vice*)  
Seyfarth Shaw LLP  
700 Milam Street  
Suite 1400  
Houston, TX 77002  
Telephone: (713) 225-2300  
Fax: (713) 225-2340  
Email: rcarty@seyfarth.com

**CERTIFICATE OF SERVICE**

I certify that this document has been filed electronically and is available for viewing and downloading from the ECF system. I further certify this document will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 28, 2020.

*/s/ David M. Bizar* \_\_\_\_\_

David M. Bizar